



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

SW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,256	03/05/2002	Carl Triplett	29930.8000	6817

7590 12/01/2004

Deborah K. Henscheid, Esq.  
Snell & Wilmer, L.L.P.  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-2202

EXAMINER

KIM, CHRISTOPHER S

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/091,256	Applicant(s) TRIPLETT ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-13,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13,23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/16/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendment filed September 3, 2004 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1-5, 8-12, 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Denen et al. (6,296,196).

Denen discloses an emanator comprising: a first material 32; and a second material 32 adjacent the first material (see column 6, line 16 for nylon and polypropylene).

### ***Claim Rejections - 35 USC § 103***

4. Claims 1, 6, 9, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harkenrider et al. (2,943,378) in view of Denen et al. (6,296,196).

Harkenrider discloses an emanator comprising a first material 26 and second material 28. Harkenrider does not disclose nylon and polypropylene. Denen discloses nylon and polypropylene in column 6, line 16. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used nylon and

polypropylene in the device of Harkenrider as taught by Denen for "good capillary action" (Denen, column 6, line 9).

### ***Response to Arguments***

5. Applicant's arguments filed September 3, 2004 have been fully considered but they are not persuasive.

Applicant argues that Denen fails to disclose a second material because the wick is a bent back on itself, and therefore, two distinct materials are not disclosed. Claims 1, 9 and 23 do not preclude the first and second materials from being connected nor from being the same type/kind of material. Denen discloses a first material 32 and a second material (the over lapped portion of wick 32) adjacent to the first material. The wick 32 is connected/attached at the top but descend into the reservoir 30 in two distinct materials adjacent to each other. Applicant's claimed invention is not distinguished from Denen's two adjacent wicks 32 which are connected at the top. Because the first and second materials are made from the same type/kind of material, it is configured such that a liquid travels through the emanator at a rate no less than a rate at which it would travel through the first material alone and no less than a rate at which it would travel through the second material alone.

Applicant argues that Harkenrider does not disclose the transfer rates of claims 1 and 9. Harkenrider in view of Denen discloses the first material comprising nylon and the second material comprising polypropylene as claimed in claims 6 and 13. The

functional recitation of claims 1 and 9 are inherent in Harkenrider in view of Denen as evidenced by claims 6 and 13.

### ***Conclusion***

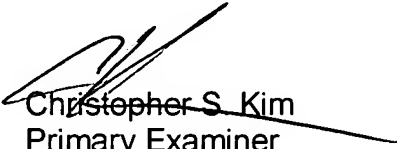
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (703) 308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK